

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 116 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No.
2. To be referred to the Reporter or not? No. :
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No.
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? : NO
No.

KARNIKABEN @ KIRTIBEN BIMAL SHAH

Versus

BIMAL JAGMOHANDAS SHAH

Appearance:

MR ASHISH DAGLI FOR MR YOGESH S LAKHANI for Petitioner
MR HM PARIKH for Respondent No. 1

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 06/08/1999

ORAL JUDGEMENT

This petition has been filed for transferring
Hindu Marriage Petition No. 68/97 pending before the
Court of Civil Judge (SD) at Anand to the competent court
at Rajkot.

2 Heard learned counsel for the parties. Learned
counsel for the petitioner submitted that the respondent
has filed the application u/s 9 of the Hindu Marriage Act

for restitution of conjugal right against the present petitioner which is also pending before the Civil Judge (SD), Anand. The petitioner is lady and has a minor son. It is very difficult for her to attend the Court on every date of adjournment fixed in the petition before the Civil Court (SD), Anand. Whereas the petitioner resides at her parental house in Rajkot city.

3. Learned counsel for the petitioner further submitted that the petitioner has also filed Hindu Marriage Petition No. 79 of 1997 u/s 13 of the Hindu Marriage Act for divorce against the present respondent which is pending before the Court of Civil Judge (SD), Rajkot. Therefore, it would be convenient to the parties for decision of both these Hindu Marriage Petitions in the Court Rajkot District and the case Hindu Marriage Petition No. 68/97 be transferred from the Court of Civil Judge (SD), Anand to the competent Court at Rajkot where another Hindu Marriage Petition between the same parties is still pending.

4. The respondent has not filed any affidavit-in-reply controverting the facts stated by the petitioner. In view of the fact that another Hindu Marriage Petition No.79/97 is pending in the Court of Civil Judge (SD), Rajkot between the same parties and that the petitioner being lady who is residing at Rajkot with her parents, she will have to face great difficulty and harassment in case she is allowed to attend the Court at Anand on each and every date of adjournment of the case.

5. In the facts and circumstances of the case, in my view this is a fit case to transfer Hindu Marriage Petition No. 68 of 1997 from the Court of Civil Judge (SD), Anand to the competent Court of Rajkot District and the District Judge, Rajkot will allot Hindu Marriage Petition No.68/97 to the competent court for trial.

6. Accordingly, this revision application is allowed and Hindu Marriage Petition No. 68/97 is directed to be transferred from the Court of Civil Judge (SD), Anand to the competent Court at Rajkot and the District Judge, Rajkot shall allot Hindu Marriage Petition No.68/97 to the competent court at Rajkot for trial. The parties would be at liberty to get both the aforesaid Hindu Marriage Petition to be tried by the same Court. Rule is made absolute, with no order as to costs.

/JVSatwara/